



26 MAY 2009

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

In re Application of	:	
VITA et al.	:	
Application No.: 10/562,323	:	DECISION ON
PCT No.: PCT/FR04/01698	:	
Int. Filing Date: 01 July 2004	:	RESPONSE
Priority Date: 04 July 2003	:	
Attorney Docket No.: 033339/305722	:	
For: URANIUM-CHELATING PEPTIDES	:	
AND USES THEREOF	:	

This is a decision on applicant's 14 April 2009 request to withdraw the holding of abandonment and consideration of applicant's 17 October 2007 submission in the United States Patent and Trademark Office.

BACKGROUND

On 23 December 2005, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee.

On 19 July 2006, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required. On 01 August 2006, applicant filed a response with an executed French/English language declaration.

On 21 March 2007, a decision on applicant's submission was mailed indicating that the declaration was defective because it did not state the country of citizenship, former residency and mailing address for *both* the deceased inventor and the legal representative (heirs) to meet the requirements for compliance with 37 CFR 1.497, did not indicate that the three heirs listed in the declaration were the only heirs of the deceased inventor and was not accompanied by a statement that the English translation of the French declaration was accurate. Applicant was advised that the time period for response was two months from the mail date of the decision (21 May 2007) and that extensions of time were available.

On 21 August 2007, a Notification of Abandonment was mailed indicating that applicant

had failed to respond to the decision.

On 17 October 2007, applicant filed a response along with a request for a five month extension of time. On 14 April 2009, applicant requested a status of the application and requested withdrawal of the holding of abandonment.

DISCUSSION

The 21 August 2007 Notification of Abandonment was incorrectly mailed because the time period within which to respond to the decision and the five month extension of time had not yet expired. Thus, the 21 August 2007 Notification of Abandonment is hereby VACATED.

With the 17 October 2007 submission, applicant filed a request for a five month extension of time, which is granted.

A review of the declaration submitted on 17 October 2007 indicates that it is acceptable and in compliance with 37 CFR 1.497(a) and (b). The application has been executed by all of the heirs of the deceased inventor; no legal representative has been appointed or is required to be appointed by law. In accord with 37 CFR § 1.42, the declaration states the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. The declaration identifies the country of citizenship, former residency and mailing address for *both* the deceased inventor, his heirs and the joint inventors, in compliance with 37 CFR (a) and (b).

The declaration submitted on 17 October 2007 is in the French language and is accompanied by an English translation together with a statement that the translation is accurate. Applicant's request for status under 37 CFR 1.42 is granted.

CONCLUSION

Applicant's request for a five month extension of time is granted. The 21 August 2007 Notification of Abandonment is VACATED. For the reasons discussed above, the request for status under 37 CFR 1.42 is GRANTED.

The declaration is acceptable and in compliance with 37 CFR 1.497(a) and (b). The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date is 17 October 2007.



Cynthia M. Kratz
Attorney Advisor
PCT Legal Administration
Telephone: 571-272-3286
Facsimile: 571-273-0459